

REMARKS

Claims 1-12 were pending as of the date of this Office Action. Applicant has amended claims 1. Applicant has cancelled claims 2, 3, 7 and 9-12. Applicant gratefully acknowledges the assistance of Examiner Hoge during a telephonic interview on September 1, 2004 with applicant's representative. Applicant has amended the claims in the manner kindly suggested by Examiner Hoge. Applicant now believes the amended claims place the application in condition for allowance. Favorable consideration and allowance is requested.

The Office Action has objected to claims 7 and 9 under 35 USC 112, second paragraph as failing to distinctly claim the subject matter which the applicant regards as his invention. Applicant has cancelled claims 7 and 9 and this objection is now moot. Applicant respectfully requests withdrawal of the rejection under 35 USC 112.

The Office Action has rejected claims 1, 4 and 6-8 as being anticipated under 35 USC 102(e) by Goetz et al. (US Pat No. 3,650,584). In the September 1, 2004 telephonic interview, Examiner Hoge suggested an amendment to claim 1 that recited "(a) a housing for a stationary visual display means comprising a movie poster (b) an audio/visual display means comprising a pre-recorded movie trailer..." The '584 does not have any recitation of the movie poster or pre-recorded trailer now recited in amended claim 1. Claims 4, and 6-8 now depend on an amended claim 1 which, as suggested by the Examiner, is now not anticipated by the '584 patent. Because the '584 patent does not teach each and every element of the claim, it cannot be properly used as an anticipatory

reference under 35 USC 102(e). Applicant respectfully requests reconsideration and withdrawal of this rejection.

The Office action has rejected claim 9 under 35 USC 102(b) as being anticipated by Hoshi (US Pat No. 4,934,079). Applicant has cancelled claim 9 and this rejection is now moot. Applicant respectfully requests withdrawal of this rejection.

The Office Action has rejected claims 1-3, and 6-8 as being unpatentable under 35 USC 102(b) as being anticipated by Hoshi (US Pat No. 4,934,079). As stated above the current amendment to claim 1 recites “(a) a housing for a stationary visual display means comprising a movie poster (b) an audio/visual display means comprising a pre-recorded movie trailer...” The ‘079 patent does not have any recitation of the movie poster or pre-recorded trailer now recited in amended claim 1. Claims 2-3 have been cancelled, and 6-8 now depend on an amended claim 1 which, as suggested by the Examiner, is now not anticipated by the ‘079 patent. Because the ‘079 patent does not teach each and every element of the claim, it cannot be properly used as an anticipatory reference under 35 USC 102(b). Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 9 and 12 are rejected under 35 USC 102(a) as being anticipated by USA Today article “Smithsonian” of May 24, 2001. Although applicant does not agree with this position, applicant has cancelled claims 9 and 12 in order to expedite prosecution and allowance of the present application. Thus, the rejection under 35 USC 102(a) is now moot. Applicant reserves the right to argue the merits of claims 9 and 12 in future continuing applications. Applicant respectfully requests reconsideration and withdrawal of this rejection.

The Office Action is correct in characterization (p. 5 para. 8) that the joint inventors commonly own the subject matter of the claims in the present invention.

The Office Action has rejected claims 4 and 5 under 35 USC 103(a) as being unpatentable over Hoshi (US Pat No. 4,934,079). The Office Action correctly characterizes Hoshi as “displaying the image of a person approaching the display panel.” Claim 1, amended in accordance with the Examiner, recites “an audio/visual display means comprising a pre-recorded movie trailer.” There is no teaching or suggestion found within the ‘079 patent for an audio/visual display means comprising a pre-recorded movie trailer. Because there is no teaching or suggestion founded in the prior art, a rejection under 35 USC 103(a) cannot be properly applied. Applicant respectfully requests reconsideration and withdrawal of this rejection.

The Office Action has rejected claim 5 under 35 USC 103(a) as being unpatentable over Goetz et al. (US Pat No. 3,650,584) in view of Marcis (US Pat No. 5,574,494). Claim 5 now depends on amended claim 1. As stated above, the subject application, amended in accordance with the Examiner’s suggestion, is now patentably distinct from Goetz because Goetz does not have any teaching or suggestion for a housing for a stationary visual display means comprising a movie poster (b) an audio/visual display means comprising a pre-recorded movie trailer as now claimed. Combination of Goetz with Marcis does not cure the deficiency in Goetz. Because there is no teaching or suggestion found within Goetz alone or in combination with Marcis, a rejection under 35 USC 103(a) cannot properly be applied. Applicant respectfully requests reconsideration and withdrawal of this rejection.

The Office Action has rejected claims 10-12 under 35 USC 102(e) as being unpatentable over Marihugh et al. (US Pat No. 6,677,689). Although applicant does not agree with this position, applicant has cancelled claims 10-12 in order to expedite prosecution and allowance of the present application. Thus, the rejection under 35 USC 102(e) is now moot. Applicant reserves the right to argue the merits of claims 10-12 in future continuing applications. Applicant respectfully requests reconsideration and withdrawal of this rejection.

Accordingly, applicant believes the response has addressed each of the issues raised in the current Office Action and the subject application, as now claimed, is in condition for allowance. If the Examiner believes a telephonic communication would expedite prosecution of this application, invitation is extended to contact the undersigned representative who is agent of record in this case. Favorable reply is earnestly solicited.

Respectfully submitted,

A handwritten signature in cursive script, followed by the date 09/13/2004.

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